



Community Development Department
BISMARCK BOARD OF ADJUSTMENT
MEETING AGENDA

June 1, 2017

Tom Baker Meeting Room

5:00 p.m.

City-County Office Building

MINUTES

1. Consider the minutes of the May 4, 2017 meeting of the Board of Adjustment.

REQUESTS

2. **Variance from Section 14-04-14(8) of the City Code of Ordinances (MA – Industrial / Rear Yard) –** Tract 14 of Surveyor's Certificate D, Block 32, Governor Pierce Addition (2250 East Broadway Avenue) | VAR2017-006

Owner / Applicant: Jackie Long

Board Action: ☐approve ☐continue ☐table ☐deny

3. **Variance from Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading –** Lots 4-5, Block 11, Sturgis Addition (216 North 14th Street) | VAR2017-007

Owner / Applicant: Andrea Grigsby

Board Action: ☐approve ☐continue ☐table ☐deny

4. **Variance from Section 14-03-06(1)(a)(4) of the City Code of Ordinances (Incidental Uses / Accessory Uses) –** Lot 7 less Lot 7A of Lot 6A of Lot 6, Block 1, Tatley Meadows VIII (3150 Manchester Place) | VAR2017-005

Owner / Applicant: Darnel Knoll

Board Action: ☐approve ☐continue ☐table ☐deny

5. **Parking Determination per Section 14-03-10 of the City Code of Ordinances –** Lot 2B of Lot 2, Block 4, Trillium 4th Addition (3007 Morrison Avenue)

Owner / Applicant: VHN Properties LLC

Board Action: ☐approve ☐continue ☐table ☐deny



ADJOURNMENT

6. **Adjournment.** The next regular meeting date is scheduled for July 6, 2017.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 2

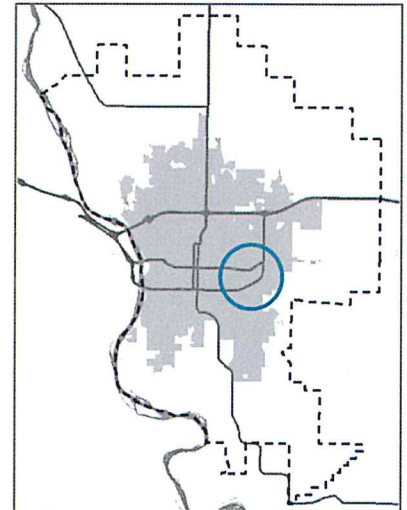
June 1, 2017

Application for: Variance

TRAKiT Project ID: VAR2017-006

Project Summary

Title:	Tract 14 of Surveyor's Certificate D, Block 32, Governor Pierce Addition (2250 East Broadway Avenue)
Status:	Board of Adjustment
Owner(s):	Jackie Long
Project Contact:	Bryant Larson, Consolidated Construction Company
Location:	In central Bismarck, north of East Main Avenue, between North 22 nd Street and North 23 rd Street, along the south side of East Broadway Avenue.
Request:	Variance from Section 14-04-14(8) of the City Code of Ordinances (MA – Industrial / Rear Yard)



Staff Analysis

The applicant is requesting a variance from Section 14-04-14(8) of the City Code of Ordinances (MA – Industrial / Rear Yard) to reduce the required rear yard setback located along the south side of their property (2205 East Broadway Avenue) from ten (10) feet to one (1) foot in order to construct an addition to the existing structure.

According to the site plan submitted with the application, the existing structure is setback one (1) foot from the property line to the south. The existing building was constructed in 1985 and according to the permit information a rear yard of ten (10) feet was required. However, in 1985 a site plan was not required to be submitted for review prior to issuing a building permit. A certificate of occupancy was issued for the structure in 1986. A copy of the building permit and certificate of occupancy are attached.

Applicable Provision(s) of Zoning Ordinance

Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, "A device which grants a property owner relief from certain provisions

of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return."

Section 14-04-14(8) of the City Code of Ordinances (MA – Industrial / Rear Yard) states, "A rear yard of at least ten (10) feet is required except when located adjacent to a public alley." According to the site plan submitted with the application, the proposed addition would be placed one (1) foot from the rear property line located along the south side of the property. The property is adjacent to the BNSF rail line; however, the rail line is not considered to be a public alley.

Required Findings of Fact

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within MA - Industrial zoning classifications.
2. The hardship is not caused by the provisions of the Zoning Ordinance.

(continued)

3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Attachments

1. Location Map
2. Site Plan
3. Building Elevations
4. Written Statement of Hardship
5. 1985 Building Permits
6. 1986 Certificate of Occupancy

Staff Recommendation

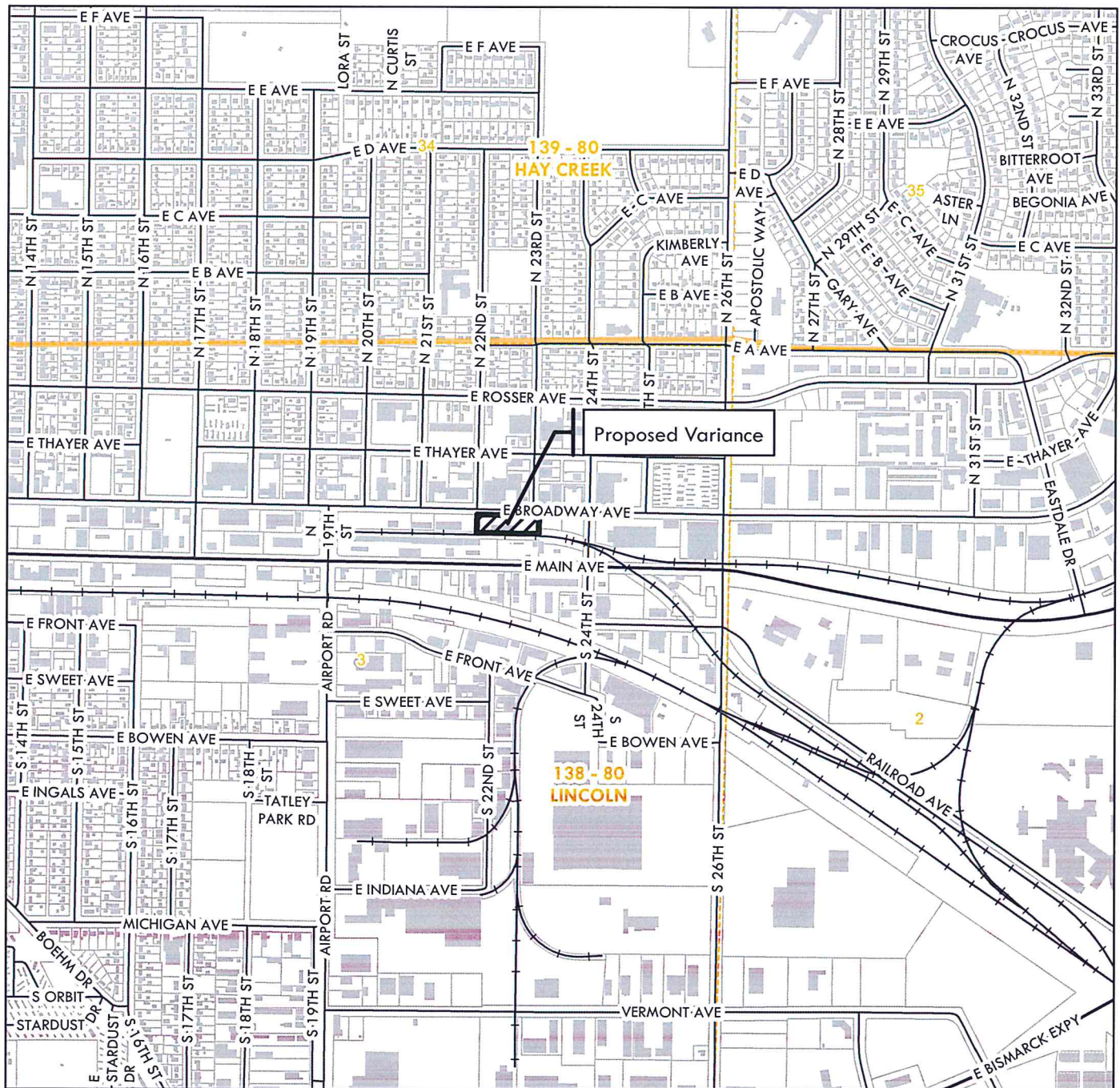
Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

Staff report prepared by: Jenny Wollmuth, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Proposed Variance
Tract 14 of Surveyors Certificate D, Block 32
Governor Pierce Addition

Project
Location Map



0 0.25 0.5 1 Miles



City Limits



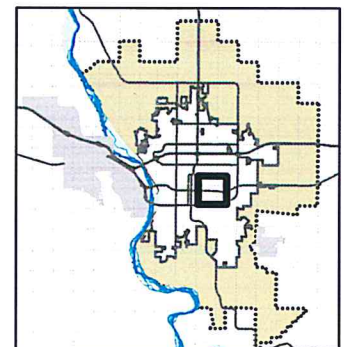
Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange



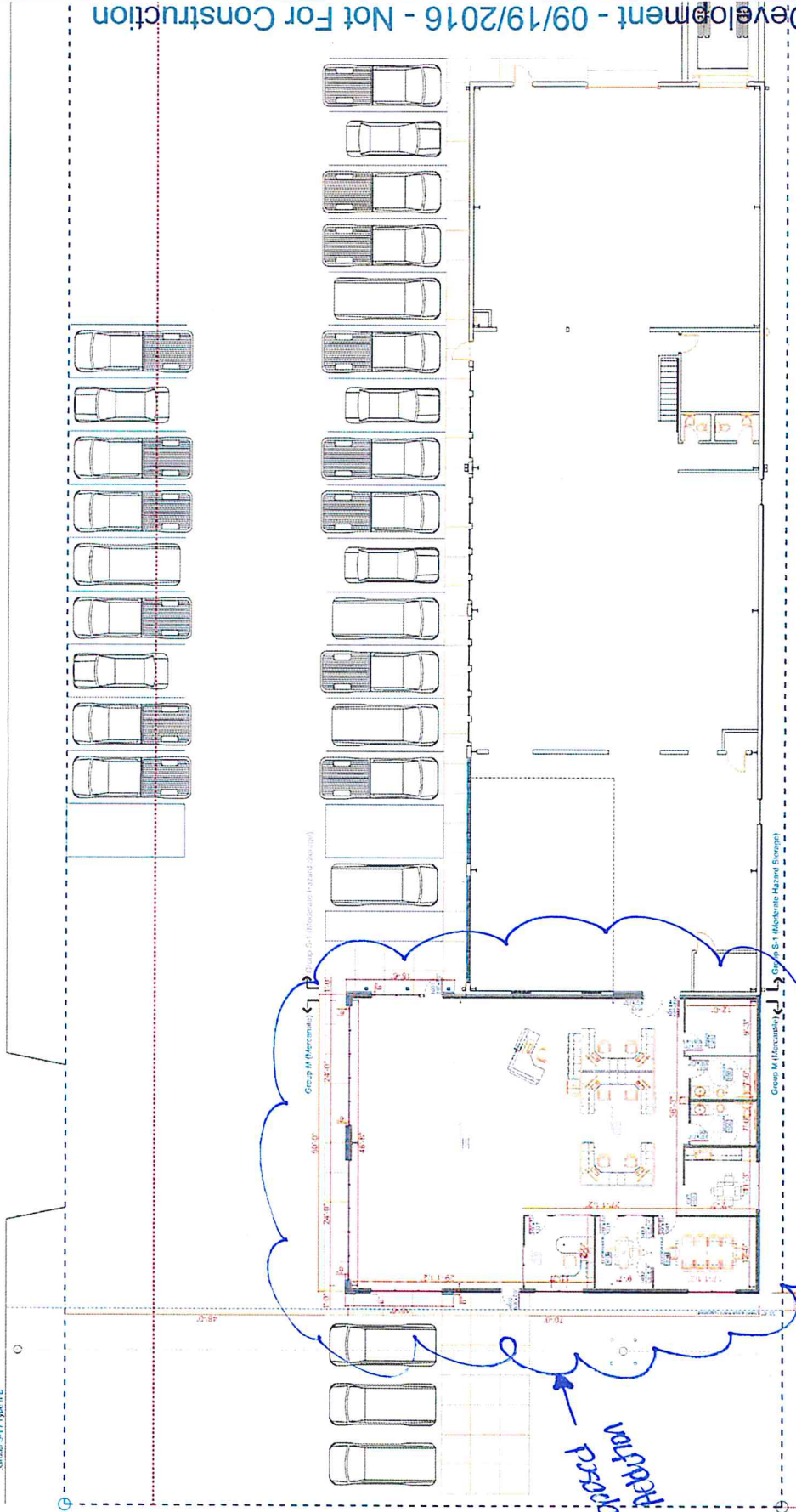
City of Bismarck
Community Development Department
Planning Division
May 10, 2017 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



2012 INTERNATIONAL BUILDING CODE ANALYSIS

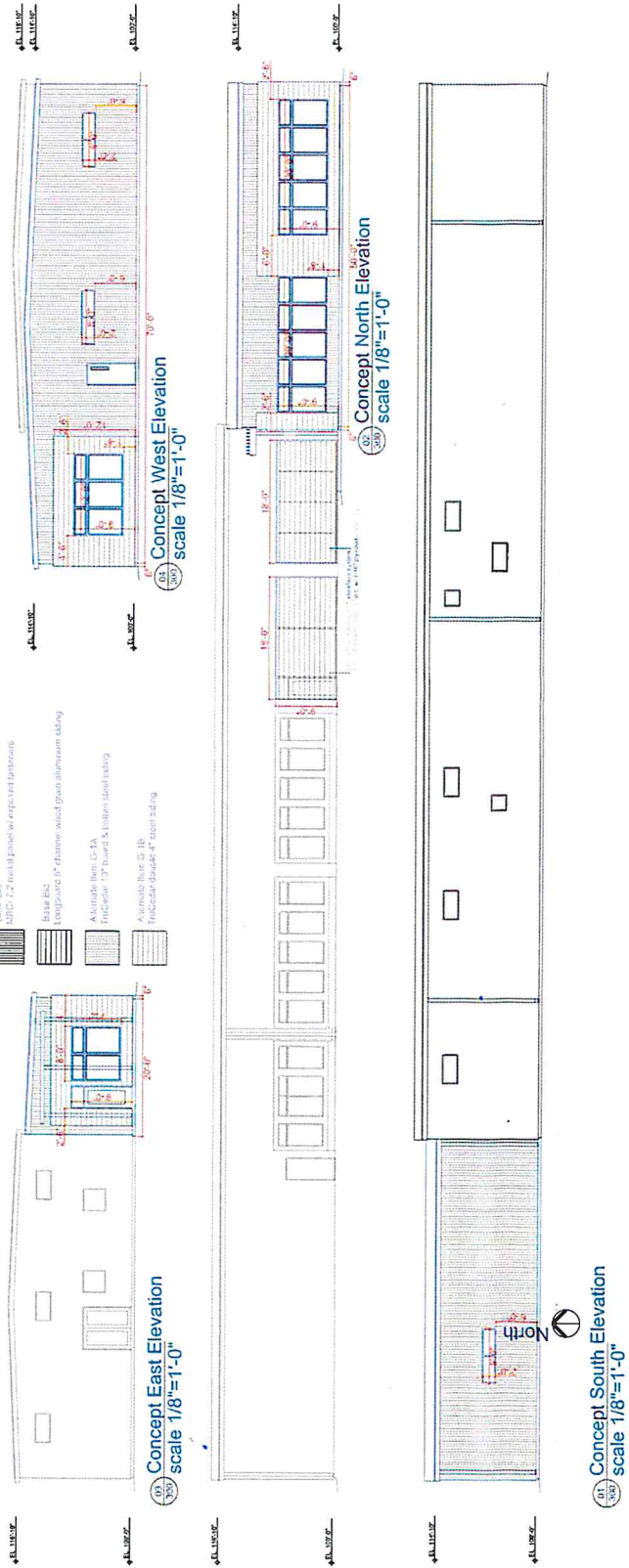
Type I-B Construction - FFL, NFPA Automatic Fire Sprinkler System (not required)
 Group S-1 / Type I-B 12,500 (603)
 Occupancy - Mercantile (S-1) 12,500 (603)
 Type I-B Construction - FFL, NFPA Automatic Fire Sprinkler System (not required)
 Group M / Type I-B 12,500 (603)
 Group S-1 / Type I-B 12,500 (603)



Concept Floor Plan
 scale 1/8"=1'-0"

Existing Footprint (Group S-1): 50'-0" x 154'-0" (7,700 square feet)
 Addition (Group M): 50'-0" x 70'-0" (3,500 square feet)
 Group M / Group S-1 Area: 11,200 square feet (less than 12,000 square feet - maximum allowable fire area as per 903.2.4 / 903.2.7 / 903.2.9)

Design Development - 09/19/2016 - Not For Construction





CITY OF BISMARCK/ETA

APPLICATION FOR APPROVAL OF A VARIANCE

WRITTEN STATEMENT

1. Property Address or Legal Description: 2205 East Broadway Avenue, Parcel # 0105-032-010

2. Location of Property: ☒ City of Bismarck ☐ Extraterritorial Area (ETA)

3. Type of Variance Requested: Eliminate 10' rear yard setback requirement

4. Applicable Zoning Ordinance Chapter/Section: 14-04-14 MA Industrial District, Rear Yard Setback

5. Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features - such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition - that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)

The existing 7,700 square foot warehouse building as constructed in 1985 was positioned toward the rear of the lot, directly adjacent to a railroad easement. At that time, all available tract information indicated the building footprint was in compliance with all applicable zoning ordinances. A site plan was approved and certificate of occupancy was issued by City of Bismarck. The current site survey prepared in 2017 indicates the position of the rear property line to be in conflict with the City of Bismarck GIS parcel map, 2015 electronic parcel map and original tract information.

As per Section 14-04-14 of the Zoning Ordinance, the rear setback with a MA Industrial district shall be at least ten (10') feet except when located adjacent to a public alley. The current building footprint is located one (1') foot from the rear property line. Based on an initial site observation, all adjacent buildings to the west and southwest possess a similar alignment and setback dimension with the railroad easement

6. Describe how these limitations would deprive you of reasonable use of the land or building involved and result in unnecessary hardship.

The variance request to eliminate the rear yard setback shall allow for the proper alignment between existing and new pre-engineered structural system and improve operational efficiency by maintaining proper line of sight not only for security purposes but path of travel during emergency egress situations.

The existing one hundred fifty four (154') feet of warehouse building parallels the railroad easement and does not interfere with the daily operation and/or health, safety and welfare of adjacent work activities. An additional fifty (50') feet of structure as proposed will not adversely affect the health, safety and welfare of this parcel and/or adjacent properties

7. Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

Any variation the proposed plan will negatively influence the operational efficiency of the existing facility, requiring a complete modification of the work area, mechanical system and internal path of egress during emergency events. Relocating the proposed building footprint to the north will constrict the parking lot and negatively impact site ingress / egress at an existing curb cut along Broadway Avenue.

I CERTIFY THAT THIS IS A MICROFILM COPY OF THE RECORDS OF THE CITY
BUILDING INSPECTION DEPARTMENT, BISMARCK, NORTH DAKOTA.

DATE 3-5-86

SIGNATURE Loreta Page

No. 2205

Street EAST Broadway AVE.

SPECIAL FLOOD HAZARD ☐

FLOOD PROTECTION ELEV. NONE

Owner: HENRY A. HILBERS

Builder: JESSIE PEER

Architect: 500 LINE DRIVE 23674

Lot: LOTS 1-4 & 21-24

+ PARTS 5 & 20, PART 1

VACATED 23RD & EASTERLY

30' OF VACATED 22ND ST. &

PART OF VACATED ALLEY

Block: 32

Addition: GOVERNOR PICKLE

Zoning District: MA

Occupancy Group: B Division: 2

Type of Work: ☒ New ☐ Addn ☐ Alter ☐ Dem ☐ Move

No. Families: 1 Stories: 1

Front: 154' Depth: 50'

Size of Eaves:

Type of Construction: II-N-IV

Area of Main Building: 7,700^{sq}

Garage Size:

Total Finished Area:

Area of Accessory Buildings:

Off Street Parking Space No. 51

Area of Off Street Parking: 9,180^{sq}

Total Area:

Water Meter Size: 1 1/2"

CITY OF BISMARCK, N.D. 58501
APPLICATION FOR BUILDING PERMIT

Extra Territorial ☐ In City ☒

Date 3-22-85 Application No. 85-104

Lot Dimensions Read Counter Clockwise:

Lot Size: 410' x 125'

Lot Area: 51,250^{sq}

% of Lot Occupied:

Easement

Required Front Yard: 15'

Required Side Yard: 20'

Required Rear Yard: 10'

DESCRIPTION OF WORK:

FOUNDATION ONLY

MARINE & AUTO SALES

TYPE	REWORKING	SETBACK	SIDE YARD	DATE	INSPECTOR
FOUNDATION	pc	20' #4	12' 4	20' 4	3-28-85 RS
GARAGE					
ADDITION					
OTHER					
FRAMING					
FINAL					
OTHER INSPECTIONS:					

NOTICE

SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING, HEATING AND MECHANICAL.
THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 180 DAYS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 180 DAYS AT ANY TIME AFTER WORK IS COMMENCED.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY OTHER STATE OR LOCAL LAW REGULATING CONSTRUCTION OR PERFORMANCE OF CONSTRUCTION.

John R. Pfaff Owner or Builder

RR #1 Box 30 Menoken, N. DAK 58

 Billing Address

Garis Goodman Witness

Jack H. Hengst Building Inspector

Note: All inspections will be made at request of builder at completion of stages.

THIS APPLICATION BECOMES THE BUILDING PERMIT WHEN SIGNED BY THE BUILDING INSPECTOR OR HIS AGENT.

I CERTIFY THAT THIS IS A MICROFILM COPY OF THE RECORDS OF THE CITY
BUILDING INSPECTION DEPARTMENT, BISMARCK, NORTH DAKOTA

DATE 3-5-86

SIGNATURE Loretta Page

No. 2205

Street EAST BROADWAY AVE

CITY OF BISMARCK, N.D. 58501

APPLICATION FOR BUILDING PERMIT

Extra Territorial ☐ In City ☒

Date 3-29-85 Application No. 85-129

SPECIAL FLOOD HAZARD ☐

FLOOD PROTECTION ELEV. NONE

Owner: HENRY A. ALDERS

Builder: JESSIE PFAFF

Architect: STRAN BUILDINGS

Lot: 500 LINE LEASE # 23674

LOTS 1-4 & 21-24 & PARTS OF LOTS

5 & 20, PARTLY VACATED 23104

EASTERLY 30' of VACATED 22714

PARTLY VACATED ALLEY

Block: 32

Addition: GOVERNOR PIERCE

Zoning District: MA

Occupancy Group: B Division: 2

Type of Work: ☒ New ☐ Addn ☐ Alter ☐ Dem ☐ Move

No. Families: 2 Stories: 2

Front: 154' Depth: 50'

Size of Eaves: 0

Type of Construction: # N - IV

Area of Main Building: 7,700 sq ft

Garage Size: LEVIL 1104 sq ft

Total Finished Area: 8,804 sq ft

Area of Accessory Buildings: 0

Off Street Parking Space No. 55

Area of Off Street Parking: 9,900 sq ft

Total Area: 17,600 sq ft

Water Meter Size: 1 1/2"

Lot Dimensions Road Center Clockwise: _____

Lot Size: 410' x 125'

Lot Area: 51,250 sq ft

% of Lot Occupied: _____

Easement _____

Required Front Yard: 15'

Required Side Yard: 30'

Required Rear Yard: 10'

DESCRIPTION OF WORK

MARINE & AUTO SALES

Cost less land: \$ 118,000

Permit 315.00

Survey 844

Other 0

Water Meter Fee 365.87

Total 680.87

Building Inspector

Phone 701-258-2070

Note: All inspections will be made at request of builder at completion of stages.

	TYPE	REINFORCING	SETBACK	SIDE YARD	DATE	INSPECTOR
FOUNDATION						
CEILING						
ADDITION						
OTHER						
FRAMING					4-16-85	RL
FINAL					1-2-86	RL
OTHER INSPECTIONS						

NOTICE

SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL, PLUMBING, HEATING AND MECHANICAL. THIS PERMIT BECOMES NULL AND VOID IF WORK OR CONSTRUCTION AUTHORIZED IS NOT COMMENCED WITHIN 180 DAYS, OR IF CONSTRUCTION OR WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 180 DAYS AT ANY TIME AFTER WORK IS COMMENCED.

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS APPLICATION AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY OTHER STATE OR LOCAL LAW REGULATING CONSTRUCTION OR PERFORMANCE OF CONSTRUCTION.

Jessie R. Pfaff

RR #1 Box 30

Owner or Builder

Mencken, N. Dak. 58558

Billing Address

Gavin Greenman

Witness

Jack Hegedus

Building Inspector

THIS APPLICATION BECOMES THE BUILDING PERMIT WHEN SIGNED BY THE BUILDING INSPECTOR OR HIS AGENT.

I CERTIFY THAT THIS IS A MICROFILM COPY OF THE RECORDS OF THE CITY
BUILDING INSPECTION DEPARTMENT, BISMARCK, NORTH DAKOTA.

DATE 3-5-86

SIGNATURE Loretta Page

Certificate of Occupancy

City of Bismarck, North Dakota

Department of Building Inspection

This Certificate issued pursuant to the requirements of Section 307 of the Uniform Building Code certifying that at the time of issuance this structure was in compliance with the various ordinances of the City regulating building construction or use. For the following:

Use Classification marine and auto sales Bldg. Permit No. 85-104 & 85-129

Group B-2 Type Construction V Fire Zone _____ Use Zone MA

Owner of Building Henry A. Albers Address 2100 East Broadway Avenue

Building Address 2205 East Broadway Avenue Locality Bismarck, North Dakota

[Signature]
Building Official

By: [Signature]
Date: February 11, 1986

POST IN A CONSPICUOUS PLACE

(over)



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 3

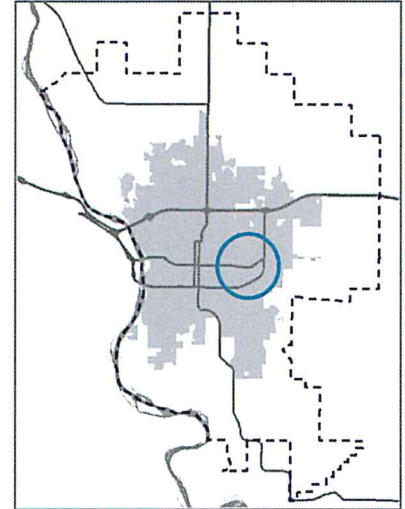
June 1, 2017

Application for: Variance

TRAKiT Project ID: VAR2017-007

Project Summary

Title:	Lots 4-5, Block 11, Sturgis Addition (216 North 14 th Street)
Status:	Board of Adjustment
Owner(s):	Andrea Grigsby
Project Contact:	Andrea Grigsby
Location:	In central Bismarck, north of East Main Avenue, between East Broadway Avenue and East Thayer Avenue, along the west side of North 14 th Street.
Request:	Variance from Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading



Staff Analysis

The applicant is requesting a variance from Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading) in order to reduce the required off-street parking spaces from eight (8) to four (4) parking spaces in conjunction with a change of occupancy of an existing structure from a single-family dwelling to a massage therapy center.

The existing single-family dwelling is located within the CG – Commercial zoning district which allows a single-family dwelling in conjunction with a commercial use. The existing single-family dwelling is considered to be a non-conforming use as it is not in conjunction with a commercial use.

A massage therapy center is a permitted use within the CG – Commercial zoning district and is considered a medical office use which requires one (1) parking space for each two hundred fifty (250) square feet. According to the building plans submitted with the application eight (8) off-street parking spaces would be required.

A permit to change the use of the existing building will be required.

Applicable Provision(s) of Zoning Ordinance

Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, "A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return."

Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading) states, "The off-street parking, stacking and loading requirements of this section shall apply to any change of use that would result in a requirement for more parking, stacking or loading spaces than the existing use. Additional parking, stacking and loading spaces will be required only in proportion to the extent of the change, not for the entire building or use." According to the information submitted with the application the proposed massage therapy center would require more off-street parking spaces than the existing single-family use (eight (8) spaces total). According to the site plan submitted with the application four (4) off-street parking spaces and ADA aisle are proposed.

(continued)

Required Findings of Fact

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within CG - Commercial classifications.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.

5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

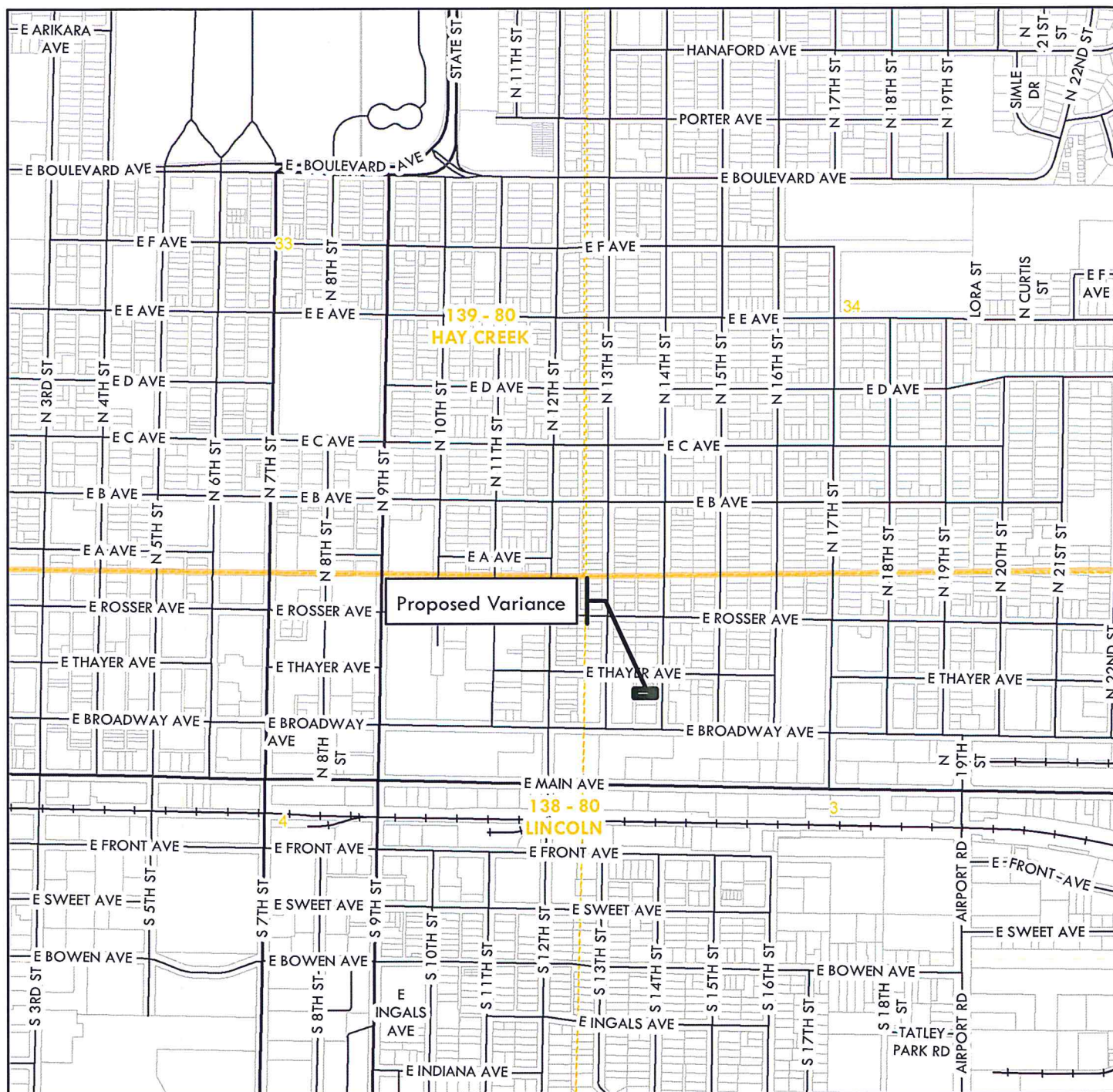
Staff Recommendation

Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

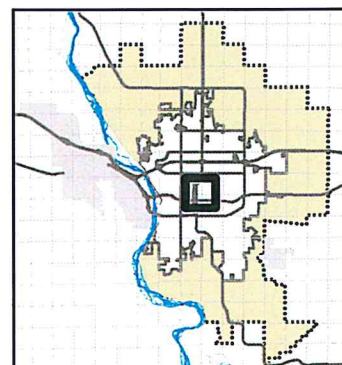
Attachments

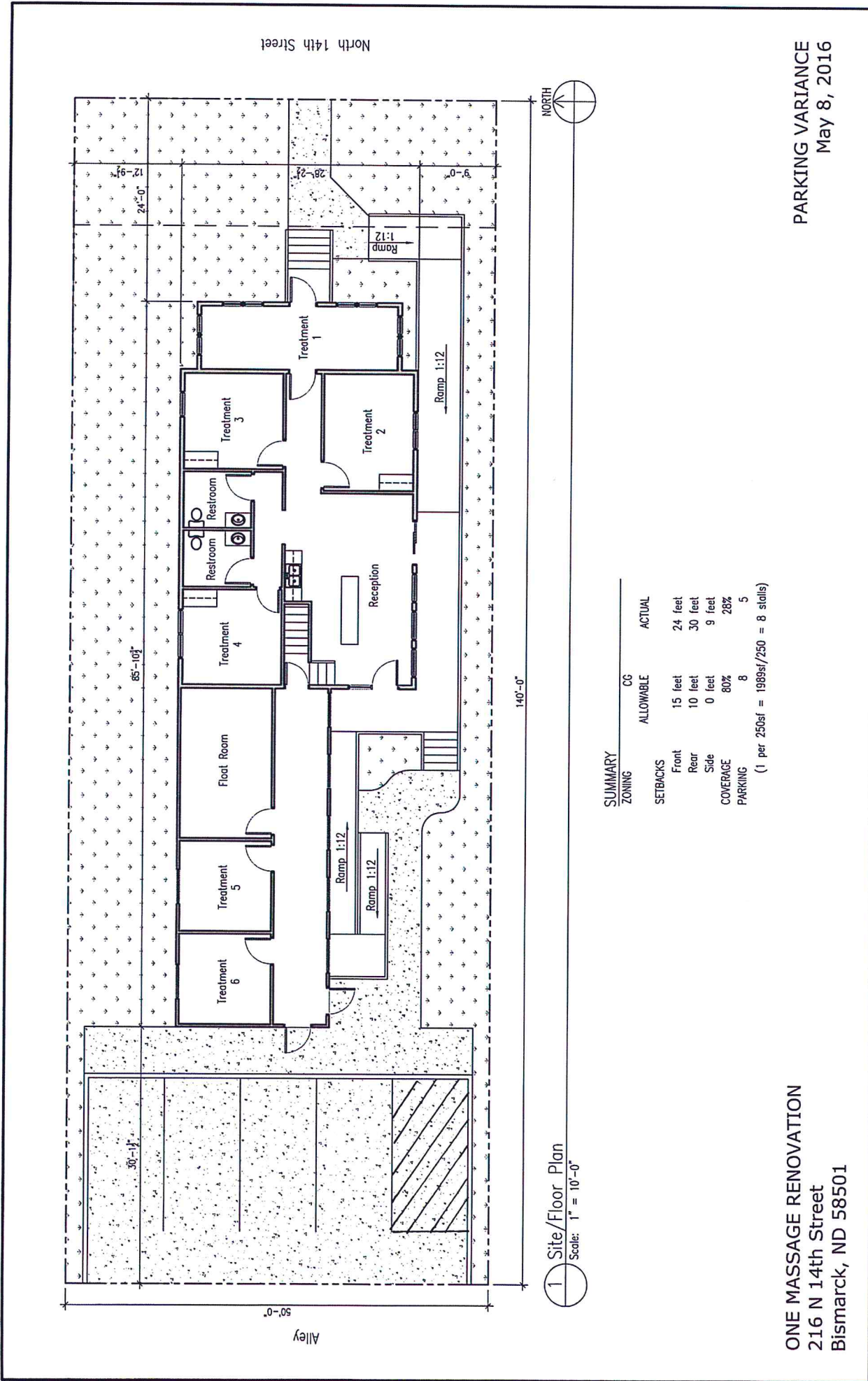
1. Location Map
2. Site Plan
3. Written Statement of Hardship

Staff report prepared by: Jenny Wollmuth, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov



Section, township, and range indicated in orange





1 Site/Floor Plan
Scale: 1" = 10'-0"

PARKING VARIANCE
May 8, 2016

ONE MESSAGE RENOVATION
216 N 14th Street
Bismarck, ND 58501



City of Bismarck
Community Development Department
Planning Division
Phone: 701-355-1840 * FAX: 701-222-6450 * TDD: 711
PO Box 5503 * Bismarck, ND 58506-5503
planning@bismarcknd.gov

Last Revised: 01/2017

WRITTEN STATEMENT OF HARDSHIP (VARIANCE REQUEST)

NOTE: WRITTEN STATEMENTS OF HARDSHIP MUST ACCOMPANY EVERY VARIANCE REQUEST APPLICATION

PROPERTY INFORMATION	
Property Address or Legal Description: (Lot, Block, Addition/Subdivision)	216 N 14th Street - Lots 4-5, Block 11, Sturgis Addition
Location of Property:	<input checked="" type="checkbox"/> City of Bismarck <input type="checkbox"/> ETA
Type of Variance Requested:	Required parking reduction
Applicable Zoning Ordinance: (Chapter/Section)	14-03-10
Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features – such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition – that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)	
Zoning Ordinance requires eight stalls. The width of the lot is and how the existing building is situated limits available space for off-street parking. Five stalls are being provided.	
Describe how these limitations would deprive you of reasonable use of the land or building involved, and result in unnecessary hardship.	
Potential uses for the building, including intended use as a massage therapy center, would be limited based on the number of off-street parking stalls available.	
Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.	
The maximum number of parking stalls that reasonable fit on the lot have been provided.	



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 4

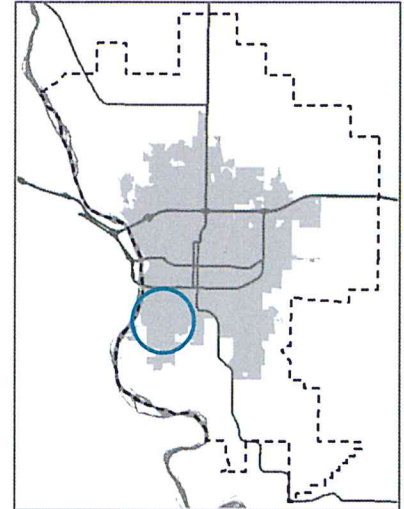
June 1, 2017

Application for: Variance

TRAKiT Project ID: VAR2017-005

Project Summary

Title:	Lot 7 less Lot 7A of Lot 6A of Lot 6, Block 1, Tatley Meadows VII (3150 Manchester Place)
Status:	Board of Adjustment
Owner(s):	Darnel Knoll
Project Contact:	Darnel Knoll
Location:	In southwest Bismarck, west of South Washington street, north of West Burleigh Avenue along the south side of Manchester Place.
Request:	Variance from Section 14-03-06(1)(a)(4) of the City Code of Ordinances (Incidental Uses / Accessory Uses



Staff Analysis

The applicant is requesting a variance from Section 14-03-06(1)(a)(4) of the City Code of Ordinances (Incidental Uses / Accessory Uses) to increase the allowed maximum allowed square footage of accessory buildings to 1,568 square feet.

The maximum area of accessory buildings for a property located in a residential zoning district within city limits is 1,200 square feet. There is an existing 320 square foot accessory building and 48 square foot storage shed located on the property. The applicant is proposing to construct a new 1,200 square foot building in addition to the existing buildings.

Applicable Provision(s) of Zoning Ordinance

Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, "A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return."

Section 14-03-06(1)(a)(4) of the City Code of Ordinances (Incidental Uses / Accessory Uses) states, "All allowable accessory buildings for a single or two-family residence in an urban residential zoning district (R5, R10, RM, RMH & RT) shall be limited to a maximum area of twelve hundred (1,200) square feet, a maximum wall height of twelve (12) feet and a maximum building height of twenty-five (25) feet." According to the site plan submitted with the application the applicant is proposing to construct a new 1,200 square foot building in addition to the existing buildings which would increase the total accessory building square footage to 1,568 square feet.

Required Findings of Fact

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within R5 - Residential zoning classifications.
2. The hardship is not caused by the provisions of the Zoning Ordinance.

(continued)

3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Staff Recommendation

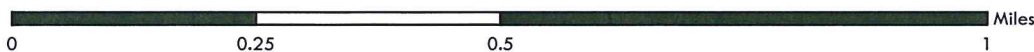
Staff recommends reviewing the above findings and modifying them as necessary to support the decision of the Board.

Attachments

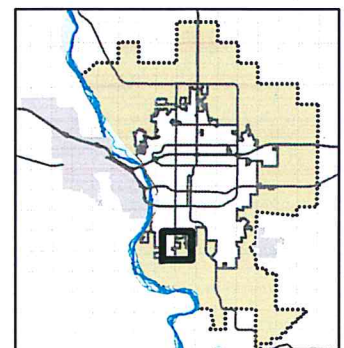
1. Location Map
2. Site Plan
3. Written Statement of Hardship

Staff report prepared by: Jenny Wollmuth, CFM, Planner
701-355-184 | jwollmuth@bismarcknd.gov

Proposed Variance
Lot 7 less Lot 7A and Lot 6A of Lot 6, Block 1
Tatley Meadows VIII



Section, township, and
 range indicated in orange





1
30ft

1

0855-001-115

0841-001-040

0841-001-040

0841-001-053

0841-001-105



City of Bismarck
Community Development Department
Planning Division
Phone: 701-355-1840 * FAX: 701-222-6450 * TDD: 711
PO Box 5503 * Bismarck, ND 58506-5503
planning@bismarcknd.gov

Last Revised: 01/2017

WRITTEN STATEMENT OF HARDSHIP (VARIANCE REQUEST)

NOTE: WRITTEN STATEMENTS OF HARDSHIP MUST ACCOMPANY EVERY VARIANCE REQUEST APPLICATION

PROPERTY INFORMATION

Property Address or Legal Description:
(Lot, Block, Addition/Subdivision)

3150 Manchester Av, Bismarck ND 58506
of 7, less lot 7A & 6A of lot 6, Block 1, Tittley meadows VI

Location of Property:

☒ City of Bismarck

☐ ETA

Type of Variance Requested:

Applicable Zoning Ordinance:
(Chapter/Section)

Describe how the strict application of the requirements of the Zoning Ordinance would limit the use of the property. (Only limitations due to physical or topographic features – such as an irregularly shaped, narrow, shallow or steep lot or other exceptional physical or topographic condition – that are unique characteristics and not applicable to other properties in the neighborhood are eligible for a variance. Variances cannot be granted on the basis of economic hardship or inconvenience.)

I would like to build up to 1200 sqft detach shop to house some special needs equipment for my grandson & some extra storage. Need it now to the ground (no steps) on flat area, the only area on my lot is where it is drawn on map by Dave Patience with Swenson & Hagen, I just need an area that is easy access and large enough, I believe I have plenty of square footage

lot size 34,349 sqft less lot 7A & 6A of lot 6

Describe how these limitations would deprive you of reasonable use of the land or building involved, and result in unnecessary hardship.

If only allowed to build 900 sqft it would limit space needed to store and use equipment needed

Describe how the variance requested is the minimum variance necessary to allow reasonable use of the property.

The variance requested is to go back up to 1200 sqft 1400 sqft would be great given the size of the lot

Thank you
for your time



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

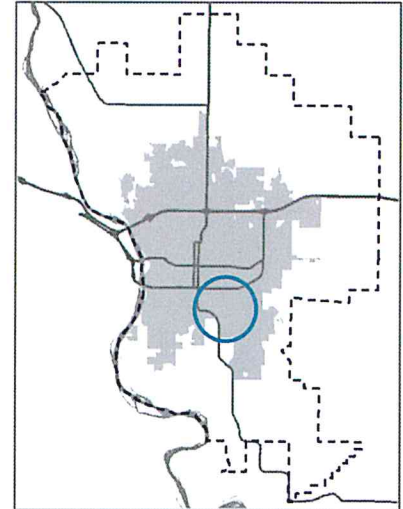
Agenda Item # 5

June 1, 2017

Application for: Parking Determination

Project Summary

<i>Title:</i>	Lot 2B of Lot 2, Block 4, Trillium 4 th Addition (3007 Morrison Avenue)
<i>Status:</i>	Board of Adjustment
<i>Owner(s):</i>	VHN Properties
<i>Project Contact:</i>	Brady Blaskowski, Building Official
<i>Location:</i>	In southeast Bismarck, in the southwest quadrant of the intersection of Burlington Avenue and Morrison Avenue.
<i>Request:</i>	Parking Determination per Section 14-03-10 of the City Code of Ordinances



Staff Analysis

City staff is requesting a parking determination be made for Morrison Avenue Shops, a 13,347 square foot single story multi-tenant shop condo building, currently under review for parking compliance.

The City's Off-Street Parking and Loading provisions were modified in March 2016. At that time, a table was created identifying uses and the required number of off-street parking spaces for each identified use. It was recently brought to staff's attention that the wording of the provisions for certain types of industrial uses, specifically shop condos, would require far more off-street parking spaces for multi-tenant shop condos than was intended.

City staff has proposed a zoning text amendment to this section that would rectify the issue and bring the requirements for multi-tenant shop condos in line with the requirements for similar facilities with only one tenant.

Under the currently Off-street and Parking requirements, a total of fifty-six (56) off-street parking

spaces would be required. If the amendment is approved as proposed, a total of thirty-five (35) off-street parking spaces would be required.

The applicant has submitted a site plan for review and approval by City staff. The site plan indicates thirty-five (35) off-street parking spaces.

The amendment is scheduled for a public hearing with the Planning and Zoning Commission at their June 28th meeting and it is anticipated that the City Commission will take action on the amendment at their July 25th meeting. A copy of the proposed amendment is attached.

Staff Recommendation

Staff recommends reviewing the above information to make the requested parking determination.

Attachments

1. Proposed zoning ordinance text amendment
2. Site Plan

(continued)

Staff report prepared by: Jenny Wollmuth, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov

CITY OF BISMARCK

Ordinance No. XXXX

First Reading _____

Second Reading _____

Final Passage and Adoption _____

Publication Date _____

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-10 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO OFF-STREET PARKING AND LOADING/OFF-STREET PARKING.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-10 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Off-Street Parking and Loading is hereby amended and re-enacted to read as follows:

14-03-10. Off-Street Parking and Loading.

* * * * *

3. Off-street parking. Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy in any zone shall be approved unless there is included with the plan for such building improvement or use, a site plan showing the required space designated as being reserved for off-street parking purposes to be provided in connection with such building improvements or use in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided. Each required parking space shall be of an area at least nine (9) feet wide and eighteen (18) feet in length, in addition to the ingress and egress driveways required. The required off-street parking, loading, and access areas shall be used exclusively for the temporary parking and maneuvering of vehicles and shall not be used for the sale, lease, display, repair, or storage of vehicles, trailers, boats, campers, mobile homes, merchandise, or equipment, or for any

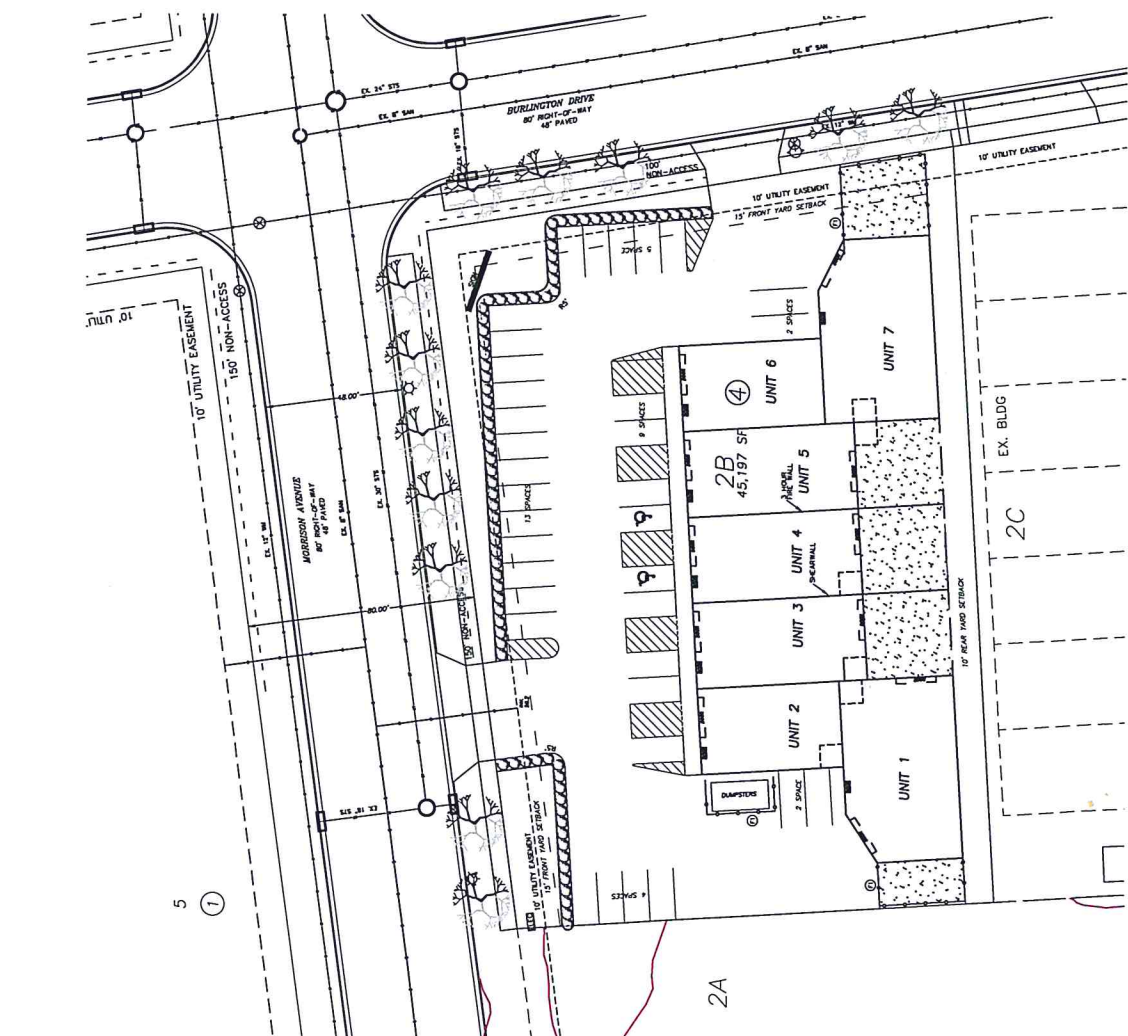
other use not authorized by the provisions of this Title. All off-street parking spaces required and all driveways on private property leading to such parking areas shall be surfaced with a dustless all-weather hard surface material. Acceptable surfacing materials include asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. Crushed rock or gravel shall not be considered an acceptable surfacing material. All parking areas containing four (4) or more spaces or containing angled parking shall have the parking spaces and aisles clearly marked on the pavement. Required off-street parking spaces for industrial uses may not be located in front of overhead doors unless they are used solely for the parking of company-owned vehicles. The number of off-street parking spaces shall be provided on the basis of the following minimum requirements:

USE	REQUIRED NUMBER OF OFF-STREET PARKING SPACES
* * * * *	
<i>Industrial Uses</i>	
Service businesses with fifty (50) percent or more of the gross floor area devoted to storage, warehouse and/or industry use, including those facilities commonly referred to as shop condos	Five (5) spaces or one (1) space for each two hundred and fifty (250) square feet devoted to public sales, service, or office use, whichever is greater, plus and one space for each six hundred (600) square feet of storage area, <u>whichever is greater.</u> Sufficient space to park all company-owned or leased vehicles including passenger automobiles, trucks, tractors, trailers and similar company-owned motor vehicles must be provided in addition to the required off-street parking. These provisions shall apply on a per unit basis for multi-tenant or multi-owner buildings such as shop condos.
* * * * *	

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent

jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect following final passage, adoption and publication.



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DM	DEWAR CLOSE BLUE SPRUCE	<i>Picea pungens 'Dawson Coburn'</i>	3' Cotton	78

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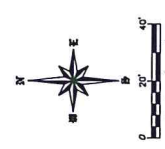
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	EXISTING CONTOUR
	EXISTING GRAVEL
	PROPOSED REMOVALS
	PROPOSED WATERMAIN
	PROPOSED GATE VALVE
	PROPOSED CONCRETE
	PROPOSED CONTOUR
	PROPOSED GRAVEL
	PROPOSED ENDORSE CONTROL
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LANDSCAPING

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
May 4, 2017**

The Bismarck Board of Adjustment met on May 4, 2017, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chairman Marback presided.

Members present were Jennifer Clark, Chris Seifert, Ken Hoff, Michael Marback and Rick Wohl.

Staff members present were Jenny Wollmuth – Planner, Brady Blaskowski – Building Official, Jason Hammes – Assistant City Attorney, Melanie LaCour – Assistant City Attorney and Hilary Balzum – Community Development Administrative Assistant.

MINUTES:

Chairman Marback called for approval of the minutes of the April 6, 2017 meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Seifert and seconded by Mr. Hoff to approve the minutes of the April 6, 2017 meeting, as presented. With Board Members Clark, Hoff, Marback, Seifert and Wohl voting in favor, the minutes were approved.

VARIANCE FROM SECTION 14-03-10(3)(OFF-STREET PARKING AND LOADING) – TRACT B OF THE S1/2 OF SECTION 30, T139N-R80W/HAY CREEK TOWNSHIP (1700 RIVER ROAD/PORT OF BISMARCK)

Chairman Marback stated the applicant, Fort Abraham Lincoln Foundation, is requesting a variance to eliminate the requirement to pave a portion of a parking lot with a dustless all-weather hard surface material in conjunction with the construction of the Missouri River Warehouse at the Port of Bismarck.

Ms. Wollmuth gave an overview of the request, including the following findings:

1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the P-Public zoning classifications.
2. The hardship is not caused by the provisions of the Zoning Ordinance.
3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.

4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

Ms. Wollmuth said staff recommends reviewing the findings in the staff report and modifying them as necessary to support the decision of the Board.

Chairman Marback asked if a response has been received from the North Dakota Department of Transportation (NDDOT) or the State Water Commission.

Ms. Wollmuth said staff did speak with Kevin Levi, NDDOT, regarding the site and it is the opinion of the NDDOT that there should be a hard surface at this location in the event construction equipment needs to be placed on site to perform maintenance on Interstate 94, which is directly above the site.

Chairman Marback asked if what is in place now is sufficient to the NDDOT. Ms. Wollmuth said it is the opinion of the NDDOT that what is there now is sufficient.

Ms. Clark asked what the surface requirements are of the NDDOT. Ms. Wollmuth said it needs to be hard surface such as pavement, asphalt or other dustless surfaces. She said it is classified now as hard surface asphalt, but has deteriorated over the years.

Ms. Clark asked who all owns the property. Ms. Wollmuth said the NDDOT owns it and leases this particular site to the City of Bismarck, the City of Bismarck subleases it to the Fort Abraham Lincoln Foundation.

Chairman Marback opened the public hearing.

Jason Petryszyn, Swenson, Hagen & Co., said the property is in both the floodplain and the floodway, but the building itself will be out of the floodway and above the Base Flood Elevation. He said any development of the property located in the floodway needs to be approved by the State Water Commission.

Chairman Marback asked who maintains the lot and during construction, if a variance is granted, would the new surface meet the standards set forth by the NDDOT.

Aaron Barth, Fort Abraham Lincoln Foundation (FALF), said the FALF oversees the property and uses it in the summer for the river boat as well as access for boaters to the boat landing and overflow parking from the boat ramp.

Chairman Marback asked if the parking lot will be striped and have any green space. Mr. Petryszyn said they had to submit their site plan to reflect everything being striped as

required in order to apply for the variance. He said if the request is denied then the property would be developed as shown on the site plan.

Chairman Marback asked if there is any parking signed for handicapped spaces. Mr. Petryszyn said there is not and that they do have ADA stalls planned to meet that 2% parking requirement.

Ms. Clark asked how the parking would be laid out if the variance is granted. Mr. Petryszyn said it would adhere to the current fire codes with accessible routes including a looped road against the handicap parking area. He said they would have to have it be 26 feet wide in order to accommodate two emergency vehicles at once.

Mr. Hoff asked if the parking will be finished with a curb. Mr. Petryszyn said it would have a curb and landscaping by the guardrail and at the edge of the parking area.

Chairman Marback said a new building and restaurant with facilities would significantly improve the property.

Ms. Clark asked if there have been any other instances of trying to minimize impact on and disturbances to the river. Mr. Blaskowski said there have not been any recent enough for comparison purposes and that most of the development along the river is residential, not commercial.

Ms. Clark asked if staff has any significant concerns as they relate to this request. Ms. Wollmuth said there are concerns as it is staffs' responsibility to maintain the integrity of the zoning ordinance. She said staff does not have the administrative ability to approve the proposed variance.

Chairman Marback said they have to account for the vehicles needed to access the property in the event the overhead bridge needs to be serviced as well as the cost to the lessee.

Mr. Petryszyn said any NDDOT maintenance or bridge repair that causes damage to the parking surface is concerning as it would be an unforeseen cost.

Mr. Hoff asked what the estimated cost of the required paving would be. Mr. Petryszyn said it would cost approximately \$200,000-\$225,000 just for the asphalt work.

Mr. Hammes pointed out that it should be included in the motion and for the record what the basis of the approval is in the event issues like this arise in the future.

Ms. Clark said this request is complicated because the development is not residential and is, instead, multiple uses. She said the Missouri River is involved and the hardship is unique, but she would like to see the property developed again. She said she has concerns with the unkempt state it is in now and was also hoping to see even more

improvements to it, regardless of the need for the review of any changes by the State Water Commission.

Chairman Marback asked what is planned for the center portion of the parking area. Mr. Petryszyn said it would be paved and look like a small cul-de-sac.

Mr. Wohl said he has concerns regarding the accessible loop and asked if language should be included for that in a motion or if it is already part of the variance request.

Ms. Wollmuth said it is part of the request, so it does not need to be referenced in the motion.

Mr. Blaskowski said all of those requirements will be looked at and addressed when a revised site plan is provided, as well as as-built plans for approval by the NDDOT.

Chairman Marback asked if the NDDOT or State Water Commission could still potentially hold up the project if they do not agree with what is on the site plan. Ms. Wollmuth said that some reviews by the State are still required.

Mr. Blaskowski said the surface being permeable was the main concern. He said the requirements are that it be a hard surface for access purposes.

Mr. Petryszyn said the hard surface depends on what jurisdiction the property is in. He said it must be able to tolerate the weight of a fire apparatus and 'dustless' is considered to be concrete or asphalt, which is also a requirement of the City.

Mr. Blaskowski said the agreement in the lease is that the City is responsible for maintenance and if the conditions break down more, soften or get to the point where the surface becomes permeable then the NDDOT will force the surface to be improved back to its original, hard surface condition.

Ms. Clark asked if the variance is granted, has everything been done to minimize the variance request. Mr. Petryszyn said the parking is based on the use so they have tried to minimize the request as much as possible while still being able to serve the planned operations. He said they have moved everything as far away from the river as possible in order to reduce any negative impacts. He said most of the needs pertain to Tract B and all other needs and requirements on the other parcels will be met.

Ms. Clark asked if the zoning ordinance is currently being violated because of the broken down condition of the surface parking now. Mr. Blaskowski said in other situations it is not asked that properties be brought into compliance, but rather look at the requirements once development or redevelopment has been proposed.

Mr. Seifert asked if any of the parking lot was paved in the past. Chairman Marback said it was not.

There being no further comments, Chairman Marback closed the public hearing.

MOTION: A motion was made by Ms. Clark to approve the variance to eliminate the requirement to pave a portion of a parking lot with a dustless all-weather hard surface material in conjunction with the construction of the Missouri River Warehouse at the Port of Bismarck on Tract B of the S1/2 of Section 30, T139N-R80W/Hay Creek Township (1700 River Road/Port of Bismarck), based on the special circumstances of the land, the NDDOT right-of-way overhead, limited opportunities for development, the multiple uses and parties involved and there not being a history of other variances granted with this type of hardship for comparison. The motion was seconded by Mr. Hoff and with Board Members Clark, Hoff, Marback, Seifert and Wohl voting in favor of the motion, the motion was approved and the variance was granted.

OTHER BUSINESS

RESOLUTION OF APPRECIATION FOR KEN HEIER

Chairman Marback read a resolution of appreciation to be given to Board Member Kenneth Heier, who chose to not be re-appointed to another term, after having served the Board of Adjustment for nine years.

BOARD OF ADJUSTMENT VACANCY

Ms. Wollmuth said the vacancy for the open position on the Board of Adjustment is posted and is scheduled to expire on May 12th. She said at that time the applications received will be reviewed and a recommendation will be provided to Mayor Seminary for appointment by the Board of City Commissioners. She said she is not aware of any applicants as of yet.

ADJOURNMENT

There being no further business, Chairman Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 5:45 p.m. to meet again on June 1, 2017.

Respectfully Submitted,

Hilary Balzum
Recording Secretary

APPROVED:

Michael Marback, Chairman